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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,039	01/16/2004	Akihiko Iguchi	43890-650	6136
7590 06/15/2005 McDermott, Will & Emery 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER WIMER, MICHAEL C	
			ART UNIT 2828	PAPER NUMBER

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/758,039

Applicant(s)

IGUCHI ET AL.

Examiner

Michael C. Wimer

Art Unit

2828

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 May 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


Michael C. Wimer
Primary Examiner
Art Unit: 2828

Continuation of 11. does NOT place the application in condition for allowance because: as broadly as recited, the claims read on the antenna structure of Phillips et al. at least as set forth in the final Office action rejection. There are other interpretations of the broad claim language and other structures disclosed by Phillips et al. that may be considered equivalents to those claimed. The intention here was to simplify a fair reading of the structures.

It is noted that the claims may be read as broadly as possible (MPEP 2111; Claim Interpretation; Broadest Reasonable Interpretation). The skilled artisan would also reach the interpretation provided below.

Applicant sets forth two issues in the REMARKS, the second paragraph on page 2. The first issue: Applicant attempts to distinguish between the elements being substantially in parallel (with) and "in vertical" (to). However, the phrase "in vertical to" is not as limitative and descriptive as applicant intends because it is not a term of use that commonly relates two structures. For example, the radiating elements 26 and 28 are clearly "in vertical to" the ground plane 30, which extends horizontally. The interpretation made in the Office action is that the elements 26 and 28 are perpendicular to the horizontally extending ground plane element 30, clearly shown in Fig. 1 of Phillips et al. Additionally, since the conductors 26, 28, 30 and 36 in Fig. 1 of Phillips et al. are all co-planar, that is, formed in the plane of the substrate 12, they may be considered parallel to each other. However, it is noted that the conductors do have a longitudinal extent, which may also define their interrelationship. For example, the longitudinal extents of the coplanar elements 30 and 36 are parallel as are those of elements 26 and 28. But, all conductors formed on the substrate 12, both front and rear surfaces, are parallel. Applicant has not claimed that the element 43 has walls that extend vertical and are perpendicular to the plane of each element 41 and 42 as shown, for example, in applicant's Fig. 35. The above arguments address applicant's arguments in the second paragraph on page 3 of the REMARKS.

The second issue: applicant deems the reasoning in the Office action flawed because the high Q circuit 42 is set forth and considered the claimed "first radiation-conductive element". The element 42 is a circuit defined as a transmission line stub. It is a high Q circuit and Phillips et al. state that it is responsible for dual-banding the antenna (see col. 1, lines 55-58; col. 2, lines 6-10; col. 3, lines 25-32 and 49-55; col. 4, lines 47-53) by tuning it to the geometric mean of the two frequency bands.

Applicant's main argument is that the stub 42 does not emit radio waves (see REMARKS, the paragraph bridging pages 2 and 3). However, there is nothing in the claims that states that the antenna elements must "emit" radio waves. Applicant's term/phrase "radiation-conductive element" is merely a generic term or name not necessarily defining an emitting/radiating element or excluding non-radiating structure. For example, it is known that antennas may be reciprocal devices, if properly matched, can be used for both radiating and receiving RF waves. Also, consider a three element Yagi-Uda antenna beam antenna where half wavelength antenna elements are arranged upon a boom, grounded thereto at the center on two of the three elements (e.g., the director and reflector elements) and an ungrounded driven element, which may contain a gamma or beta or stub matched feed system. The entire structure is considered by the skilled artisan as a "radiation-conductive element". This is a reasonable interpretation as set forth in MPEP 2111. The beta, gamma or stub match is integral to the driven antenna element, connected thereto and impedance matched to the feed line and the boom electrically connects the structures together. The stub in Phillips et al. may also be considered the "radiation-conductive element" without actually emitting/radiating any significant RF energy. An antenna used as a receiving antenna does not emit radiation. Applicant's term/phrase does not preclude any other antenna components, particularly when the structure provides a particular frequency band. Applicant should claim their invention in clear and concise terms so as to avoid a broad reading of elements, such as disclosed by Phillips et al.

Regarding the remarks to the alternative reading of the antenna elements 26 and 28, it was meant only as an emphasis to show applicant of the broad language used in the claims. Specific language reciting the particular arrangements of antenna elements is suggested in order to overcome anticipation by Phillips et al.

The rejection stands.